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BOOK REVIEWS

AMERICAN CONSTITUTIONAL CUSTOM. Burleigh Cushing Rodick. New York: Philosophical Library, 1953. Pp. xx, 244.

Some years ago, Professor Burdick remarked that Gladstone's contrast of the British Constitution, said to be "the most subtle organism which has proceeded from progressive history," with that of the United States, described by Gladstone as being "the most wonderful work ever struck off at a given time by the brain and purpose of man," was far from being a satisfactory one.¹ The inference, if Gladstone's statement was correct, would be that the American Constitution was the product of manufacture rather than growth. Professor Hart, in a more recent publication devoted to the early shaping of the office of President,² there demonstrated that history was not a broken stream, at least not with respect to one aspect of constitutional development. In this brief monograph,³ Mr. Rodick adds further proof that the form and substance of the American Constitution contains little that is not the product of a customary growth evolved by generations of Englishmen whose lives preceded the drafting of that document. The striking parallels he draws between such events as the Puritan Revolution of 1648-9 and the culmination of the American Revolution in 1787 form too strong a chain to permit of refutation of the thesis that government stands ever between two forces; one striving for political continuity, representing the traditional past, and the other seeking, and slowly accomplishing, political change. The treatment of that thesis, as found in this book, serves to shed substantial light on constitutional beginnings.

THEY ESCAPED THE HANGMAN. Francis X. Busch. Indianapolis, Indiana: The Bobbs-Merrill Company, Inc., 1953. Pp. viii, 301.

In this, the third of a series of volumes dealing with notable American trials,¹ the author continues with his plan to record, in dramatic style, outstanding instances of the actual operation of criminal jurisprudence in the United States. Following upon the format already established, the four cases here discussed, each a noteworthy illustration of what can, or

¹ Burdick, *The Law of the American Constitution* (G. P. Putnam's Sons, New York, 1922), p. 3.

² See Hart, *The American Presidency in Action, 1789* (The Macmillan Co., New York, 1948), reviewed in 26 CHICAGO-KENT LAW REVIEW 365-6.

³ The text covers 140 pages. The balance of the book is devoted to copious notes and extended bibliographical tables.

¹ Reviews of the two earlier volumes appeared in 30 CHICAGO-KENT LAW REVIEW 292-3.

cannot, be accomplished in the prosecution of a spectacular crime, provide the reader, be he lawyer or layman, with an accurate picture of the excitement and suspense which attends upon a criminal trial. While each case varies from the other, ranging as they do from political assassination through murder for profit, or vengeance, to treason, each bears a relation to the other in that the defendant or defendants involved avoided paying, whether rightfully or not, the maximum penalty fixed by law.

As before, the author has elected to record more than the passing scene. Two of the cases, the trial of Caleb Powers for the murder of Kentucky's Governor Goebel and that of Albert Patrick for the poisoning of the founder of Texas' Rice Institute,² go back to the turn of the century or before. The Halls-Mills murder case, dealing with the sordid story of an amorous clergyman and his enamored choir singer, is drawn from the 'twenties. The Haupt trial, on the other hand, is almost as fresh as yesterday's newspaper, particularly to those living in Chicago who might know the lawyers who there faced one another across the counsel table in the first successful treason prosecution conducted in the history of the United States.

Readers of earlier volumes will know what to expect from Mr. Busch's highly readable, even fascinating, style of presentation. They will not be disappointed, although they will notice a decrease in direct quotation from the record which marked some of the earlier reports. Others, not already familiar with either the author or his descriptive ability, have a profitable experience ahead of them if they will but peruse the new volume. They will then, without doubt, wish to go back and pick up the earlier ones.

² See also Osborne, *Questioned Documents* (Boyd Printing Co., Albany, New York, 1929), 2d Ed., pp. 207, 273 and 330, for a discussion of the expert handwriting problems involved in the testimony in this case.